

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BRAHM FOODS, INC.,

Petitioner

-against-

DR ASIAN PRODUCE, INC.,

Respondent

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PETITION

Petitioner Demands a Jury
Trial

Petitioner Brahm Foods, Inc., (“Brahm”) by its attorney Vivek Suri, Esq., as and for tis
Petition herein alleges:

1. That it was the respondent in a reparation proceeding under the Perishable
Agricultural Commodities Act, 1930, as amended (7 USC Sec 499 et seq.), namely in the matter
of DR Asian Produce, Inc., v. Brham Foods, Inc., PACA Docket No. E-R-2018-086, dated
November 7, 2019, by Bobbie J. McCartney, Judicial Officer.

2. Brahm has its principal place of business at 56-06 56th Street, Maspeth, NY 11378
within the jurisdiction of this Court.

3. A timely complaint was filed in which DR Asian Produce, Inc., (“DR Asian”)
sought a reparation award against Brahm in the total amount of \$52,701.39 in connection with
the sale and shipment of produce that was shipped in the course of interstate commerce.

4. A copy of the complaint was served upon Brahm, who filed an answer thereto
denying the material allegations of the complaint and raising affirmative defenses.

5. The shortened method of procedure provided in section 47.20 of the Rules of
Practice (7. CFR Sec. 47.20) was applied. Pursuant to this procedure the pleadings of the parties
and the investigation of the USDA was considered.

6. On or about August 15, 2019, an Order was issued awarding reparations to DR Asian in the amount of \$52,701.39 with interest thereon at the rate of 1.78 percent per annum from December 1, 2017, plus the amount of \$500.00.

7. On or about September 9, 2019, Brahm filed a motion for reconsideration and DR Asian opposed the reconsideration.

8. On November 7, 2019, an Order was issued awarding reparations to DR Asian in the amount of \$52,701.39 with interest thereon at the rate of 1.78 percent per annum from December 1, 2017, plus the amount of \$500.00. A copy of the Order is attached as Exhibit 1.

9. The USDA held that its original decision was correct because it had reviewed all the evidence provided by Brahm and applied the credit to the transactions.

10. Even though the decision was rendered on or about November 7, 2019, and upon information and belief sent to Brahm's attorney Law office of Gabriel Amene, Esq., Brahm was not aware of the order. Brahm became aware of the November 7, 2019, order on or about December 4, 2019 through an email sent to its attorney and decided to file this appeal and petition within 30 days of December 4, 2019.

11. Any delay in filing this appeal and petition by Brahm are inadvertent and its appeal and petition should be accepted.

10. The grounds upon which Brahm relies that the Decision and Order of the USDA should be overturned are that it is incorrect as to the facts and as to the law.

WHEREFORE, it is respectfully requested that the reparation order of the Secretary of Agriculture awarding \$52,701.39 with interest thereon at the rate of 1.78 percent per annum from December 1, 2017, plus the amount of \$500.00 be reversed in its entirety; that Brahm be

awarded costs disbursements and attorney's fees of this action, together with such other and further relief that is just and proper.

Dated: New York, New York
January 2, 2020

/s/ Vivek Suri
Vivek Suri, Esq.

To: DR Asian Foods, Inc.
13001 SW 142 Street
Miami, FL 33186